



**Special Education Advisory Committee SEAC
Policies, Practices and Procedures Subcommittee**

**(Proposed) Policy 5360:
Homebound and Home-based Instruction
Review, Findings, and Recommendations Report**

Prepared For:
SEAC Membership
Loudoun County School Board

Status of SEAC's Recommendations

SEAC reviewed the draft of policy 5360 dated January 9, 2019 (labeled "1.9.18"). The following concerns and report are based on that draft, and line and sections are as numbered in that draft.

LCPS staff revised its draft in response to SEAC's review, and that revised draft was presented to the Ad Hoc Committee on Special Education on March 21, 2019. This preface is a summary of the recommendations raised by SEAC and whether they were adequately addressed by the staff's revisions.

Recommendation 1: Clarify the difference between homebound and home-based instruction.

Remove the phrase “must be temporarily” from the opening paragraph.	Addressed.
The opening paragraph is in error defining both placements as temporary.	Addressed.
Each definition needs to be clearly defined - homebound is temporary while home-based is long term.	Addressed for homebound. Not addressed for home-based.
Home-based instruction definition - Policy Lines 149-151 - Home based instruction is a <i>long term</i> instructional placement that may be provided to general education or special education.....due to “disciplinary, mental health, medical, or other reasons” (“mental health and medical” added).	Not addressed. Debbie Rose independently raised similar concerns to the Ad Hoc Committee, resulting in an amendment. The amended text is an improvement but still does not adequately address the recommendation.

Recommendation 2: Add steps to meet obligations to students currently served by Section 504 Plans.

(A)(2)(c) at “notification to special education supervisor”: add “or 504 coordinator”	Addressed.
(A)(3) (IEP Team meeting) add a similar (A)(4) with a 504 team meeting	Text added by staff (revision lines 44-46) does not adequately address the issue. Our understanding is that this is a procedural obligation – a must/shall, not a “may.”
Add new (A)(4)(b): “Conduct a full re-evaluation of the student.”	Not addressed by staff. See [OCR]
(A)(3)(e) at “revise the IEP”: Add new (A)(4)(b) “revise the 504 plan”	Not addressed by staff.
Add new (B)(1)(d) with all of these steps for home-based.	Text added by staff (revision lines 216-218) does not adequately address the issue. Our understanding is that this is an obligation – a must/shall, not a “may.”

Recommendation 3: Add steps to meet IDEA’s “Child Find” obligation.

Add: Convene a Child Study Team at the first request for home-bound/-based to review and consider the need for special education and related services. If the student is not referred for evaluation, the Child Study Team should reconvene every 6 months.	Not addressed by staff. (See Findings and Concerns.)
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Recommendation 4: Methods for resolving disputes regarding homebound instructional services.

Add: Any parent or legal guardian who is not satisfied by the decision of the school division to their request for home-bound or home-based placement may appeal the decision to the School Board (see School Board Policy 2350 on Appeal of Administrative Decisions [LCPS2350]). The School Board Committee appointed under Policy 2350 is authorized to make exceptions to this policy for good cause.	Text added by staff (revision lines 154-160) does not adequately address the issue. The VDOE guidelines [VDOE18] are satisfied by including any process. SEAC is concerned with having the same administrators who made the initial decision review and decide that they are wrong is neither realistic nor supported by community experience. Failure to offer a legitimate dispute resolution mechanism will lead to the use of regulatory complaints and legal actions. We recommend that the School Board provide a fair, middle ground solution.
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Recommendation 5: Make the following editorial changes.

(B)(2)(A): switch (A) & (B) and append “; or” after the new (A) (A) and (B) are two separate cases, currently an AND, not an OR.	Not addressed.
(B)(2)(c): change “disciplinary action” to “placement change”	Addressed.
Rename (C) to “General Provisions” Make the old (C) a new (C)(1) titled “Staff qualifications” Move (B)(2)(c) to (C)(2), titled “Attendance”	Not addressed.
(A)(3)(d): Prefix with “provide parents with Prior Written Notice” and change “consent” to “informed parental consent”	Addressed.
(A)(3) “it’s” → “its”	Addressed. (Reworded)

1. Introduction

a. Policy, Practices, and Procedures Subcommittee

The Regulations Governing Special Education Programs for Children with Disabilities in Virginia reflect the state and federal requirements for the provision of special education and related services. The regulations outline the functions of the SEAC, as specified by Section 8VAC20-81-230 (D)(2), and are as follows:

1. Advise the local school division of needs in the education of students with disabilities;
2. Participate in the development of priorities and strategies for meeting the identified needs of students with disabilities;
3. Submit periodic reports and recommendations regarding the education of students with disabilities to the division superintendent for transmission to the local school board;
4. Assist the local school division in interpreting plans to the community for meeting the special needs of students with disabilities for educational services;
5. Review the policies and procedures for the provision of special education and related services prior to submission to the local school board; and
6. Participate in the review of the local school division's annual plan.

This report satisfies requirements 1, 2, and 5 above as set forth by the Individuals with Disabilities Education Act (IDEA) and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

SEAC created a Policies, Practices and Procedures subcommittee to review and provide advice to the School Board on whether and how policies, practices and procedures meet the needs in the education of children with disabilities. The subcommittee was established by a vote of the SEAC membership in October of 2018 as part of the recommendations included in SEAC's 2017-2018 Annual Report. The subcommittee's tasks include:

Recommendation 1A: Establish and use a workflow to introduce and provide SEAC with special education policies, practices, and procedures that are new, require periodic review, or revised to enable SEAC to complete a thorough review in a reasonable timeframe (given that SEAC meets monthly) and provide input prior to submission to the school board.

This report includes findings and recommendations to the Loudoun County School Board. The recommendations were developed as a result of a collaborative process that included input from the SEAC membership and the recommendations were adopted by a vote by a quorum of the full committee.

b. Issue Background and History

The School Board is required to periodically review all policies, and as part of that process, proposed policy 5360, Homebound and Home-based Instruction [LCPS5360], was identified for review by SEAC. Also, in April 2018 and then again in November 2018, the VDOE released revised guidelines for homebound and home-based instruction. At the January 9, 2019 SEAC meeting, the LCPS administration presented a draft of this policy to the SEAC membership. The draft reviewed by the subcommittee is the version dated January 9, 2019.

The subcommittee met twice in January and developed a set of proposed recommendations that were presented at the February 6 SEAC meeting. Due to lack of quorum, the recommendations could not be voted on. The subcommittee met twice in February and received additional feedback from members of the community and SEAC membership based on the February 6 presentation. The subcommittee revised the recommendations and decided to additionally document the community concerns that are the basis for the recommendations. The subcommittee presented these community concerns and updated recommendations at the March 6 SEAC meeting. The recommendations were unanimously approved by the SEAC.

c. Disclaimer: Not Legal Advice, Seek Competent Counsel

Some of the concerns raised by the subcommittee are not only questions of educational policy and right and wrong, but also questions of compliance with federal and state laws and regulations based on our research and understanding. It is our understanding that SEAC can express concerns about compliance and refer to laws and regulations as a basis for those concerns.

We strongly recommend that the School Board discuss compliance concerns directly with competent counsel. It is our understanding that neither SEAC nor all non-attorney LCPS staff may provide legal advice.

Nothing in this document should be taken as legal advice. All law, including disability and Special Education law, is complex and often fact-specific, and questions can only be definitively answered through a final decision. Different attorneys may reach different opinions.

The United States Department of Education's Office for Civil Rights provides assistance with understanding and complying with obligations under Section 504 of the Rehabilitation Act and the ADA. They can be reached at (202) 453-6020. The Virginia Department of Education provides assistance with understanding and complying with obligations under the IDEA and Virginia's implementing regulations.

2. Findings and Concerns

The Policy, Practices, and Procedures Subcommittee found that the proposed policy does not meet the needs of Special Education Students.

a. Homebound placements are being used for long-term placement needs

Homebound placement is a temporary placement intended to be used only for a short period of time. It is only designed to reduce regression and does not provide educational progress.

SEAC has identified cases in which students have been on homebound for more than a year and have not been transitioned to a home-based (long-term) placement. The latter placement should provide the student with the ability to make educational progress in light of their individual circumstances.

b. Failure to identify disability under Section 504 / Special Education

The regulations implementing Section 504 of the Rehabilitation Act for education [34 CFR 104.3] define *Handicapped person* as “any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.” and define *Major life activities* as “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.”

It is our understanding that the term “handicapped” has been superseded by the terms “disabled” and “disability” as these laws have evolved over time, but that the terms are generally interchangeable. For example, the Education for All Handicapped Children Act was an earlier version of the current Individuals with Disabilities Education Act (IDEA).

The U.S. Department of Education’s Office of Civil Rights (OCR) provides additional guidance with regards to duration of impairment: [OCR]

“33. How should a recipient school district view a temporary impairment?

A temporary impairment does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

In the Amendments Act (see FAQ 1), Congress clarified that an individual is not “regarded as” an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

34. "Specially designed instruction" means adapting, as appropriate to the needs of an eligible child under this chapter, the content, methodology, or delivery of instruction: (34 CFR 300.39(b)(3))

- 1. To address the unique needs of the child that result from the child's disability; and*
- 2. To ensure access of the child to the general curriculum, so that the child can meet the educational standards that apply to all children within the jurisdiction of the local educational agency.*

Is an impairment that is episodic or in remission a disability under Section 504?

Yes, under certain circumstances. In the Amendments Act (see FAQ 1), Congress clarified that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.”

The Virginia regulations implementing Special Education define Special Education as follows [8VAC20-81-10]:

"Special education" means specially designed instruction, at no cost to the parent(s), to meet the unique needs of a child with a disability, including instruction conducted in a classroom, in the home, in hospitals, in institutions, and in other settings and instruction in physical education. The term includes each of the following if it meets the requirements of the definition of special education: (§ [22.1-213](#) of the Code of Virginia; 34 CFR 300.39)

- 1. Speech-language pathology services or any other related service, if the service is considered special education rather than a related service under state standards;*
- 2. Vocational education; and*
- 3. Travel training.*

The regulations define “specially designed instruction” as follows:

"Specially designed instruction" means adapting, as appropriate to the needs of an eligible child under this chapter, the content, methodology, or delivery of instruction: (34 CFR 300.39(b)(3))

- 1. To address the unique needs of the child that result from the child's disability; and*
- 2. To ensure access of the child to the general curriculum, so that the child can meet the educational standards that apply to all children within the jurisdiction of the local educational agency.*

The regulations define "[child with a] disability" as follows:

"Child with a disability" means a child evaluated in accordance with the provisions of this chapter as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disability (referred to in this part as "emotional disability"), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities who, by reason thereof, needs special education and related services. This also includes developmental delay if the local educational agency recognizes this category as a disability in accordance with [8VAC20-81-80](#) M 3. If it is determined through an appropriate evaluation that a child has one of the disabilities identified but only needs a related service and not special education, the child is not a child with a disability under this part. If the related service required by the child is considered special education rather than a related service under Virginia standards, the child would be determined to be a child with a disability. (§ [22.1-213](#) of the Code of Virginia; 34 CFR 300.8(a)(1) and 34 CFR 300.8(a)(2)(i) and (ii))

The regulations define "emotional disability" (ED) as follows:

"Emotional disability" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance: (34 CFR 300.8(c)(4))

- 1. An inability to learn that cannot be explained by intellectual, sensory, or health factors;*
- 2. An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;*
- 3. Inappropriate types of behavior or feelings under normal circumstances;*
- 4. A general pervasive mood of unhappiness or depression; or*
- 5. A tendency to develop physical symptoms or fears associated with personal or school problems.*

Emotional disability includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disability as defined in this section.

The VA regulations define “other health impairment” (OHI) as follows:

"Other health impairment" means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia and Tourette syndrome that adversely affects a child's educational performance. (34 CFR 300.8(c) (9))

The subcommittee's understanding is that the definitions of homebound and home-based instruction – adapting instruction to, and providing instruction in, a home or facility environment, qualifies as adapting the content, methodology, and delivery of instruction to address the unique needs of the child as well as to ensure access to the general curriculum. This appears to meet the definition of specially designed instruction, and in turn meets the definition of special education, if the child has a qualifying disability.

The subcommittee's understanding is that homebound and home-based instruction is justified by one or more of the following criteria: serious disciplinary need, serious mental health need, or serious physical health need, and pregnancy. When the subcommittee considered examples and identified cases of why students qualify for homebound and/or home-based services, we noted that many of the cases may meet the definitions of qualifying disabilities. That is, cases of serious physical health need often met the IDEA definition of “other health impairment” (OHI), while cases of serious mental health needs often met the IDEA definition of “emotional disability” (ED). Pregnancy is not considered a disability on its own, but impairments during or after pregnancy may rise to the level of a serious physical or mental health need and IDEA OHI or ED. However, pregnancy is also protected by Title IX [OCR2013].

Serious disciplinary need is a complex subject. The subcommittee noted that students are often identified for Special Education because of disciplinary problems, and upon further investigation these are found to be manifestations of a disability or “acting out” consequential to a disability. For example, a student with dyslexia might develop disciplinary problems because they have difficulties reading and completing assignments, are embarrassed or feel inadequate, and then rebel against tasks and classroom structure. SEAC has previously expressed broad concern about discipline practices in LCPS and its impact on children with disabilities. The SEAC Policy, Practices and Procedures Subcommittee strongly supports LCPS looking for opportunities to identify and remedy the underlying causes of disciplinary issues; discipline disproportionality for students with disabilities is an ongoing SEAC concern.

SEAC has identified cases where students on homebound and/or home-based services may meet the eligibility criteria for an IDEA qualifying disability (especially ED and OHI) and are receiving specially designed instruction at home or a facility, and their parents have requested eligibility for Special Education. We have identified cases where LCPS has refused the parent referral for Child Study, where LCPS has refused to evaluate for disability, and where LCPS has evaluated but found the student ineligible where the facts made available to us lead us to be concerned with the denial.

SEAC is concerned that LCPS appears to be systemically denying disability identification and Special Education eligibility to homebound and home-based students.

c. Refusal to offer home-based placements

SEAC has identified cases where IEP Teams refused students a home-based placement. Parents were incorrectly told that home-based placements are solely for students with disciplinary issues. This is part of a larger concern identified by SEAC where IEP Teams often fail to consider appropriate placement options.

Home-based placements are not being utilized for students with medical and mental health conditions that require a long-term placement.

SEAC has identified cases where students were refused home-based placements where that was the only appropriate option (for example, serious, chronic illness). Many parents withdrew their child from LCPS and are now homeschooling.

d. Homebound and home-based instruction not individualized

SEAC has identified cases where students with disabilities receiving home services are not receiving Special Education services.

Parents have reported receiving the same minimal home services that LCPS offers general students on these placements, instead of services to meet the substantive standard of the Free Appropriate Public Education (FAPE) that LCPS is obligated to provide [SCOTUS17].

SEAC is concerned that the unique, individual needs of Special Education students on home services are not being carefully considered by the IEP Team when determining service hours.

Instructional hours should be based on the unique needs of the student instead of the VDOE's minimum mandated hours. It is our understanding that, in *Endrew*, the Supreme Court specifically considered and rejected the argument that schools are only obligated to provide a program calculated to provide *de minimis* progress [SCOTUS17]. Therefore, it is our understanding that the argument commonly

reported by parents made by LCPS staff that they are only obligated to provide the minimum required by the VDOE is generally incorrect and unlikely to meet LCPS's obligation to provide a FAPE.

e. Limited options for homebound and home-based instruction

SEAC has identified cases where students were only offered online coursework without IEP Team consideration of their disability.

Parents report that the online platforms for coursework are poor and not competitive with other options. For example, one parent questioned why LCPS, with a nearly \$1.3B/year budget, is unable to provide online coursework as good as what they can get for free from k12.com.

The scope and sequence of online courses do not match the scope and sequence of classroom instruction. Therefore, transitioning a student back to classroom-based instruction is virtually impossible, forcing the student to continue receiving online instruction for the rest of the school year.

Parents report that the teacher and skill availability is insufficient, and there are not enough telepresence devices.

Parents report lack of access to elective courses to fulfill graduation requirements.

3. Recommendations

Recommendation 1: Clarify the difference between homebound and home-based instruction.

Remove the phrase “must be temporarily” from the opening paragraph. The opening paragraph is in error defining **both** placements as temporary. Each definition needs to be clearly defined - homebound is temporary while home-based is long term.

Home-based instruction definition - Policy Lines 149-151 - Home based instruction is a *long term* instructional placement that may be provided to general education or special education.....due to “disciplinary, mental health, medical, or other reasons” (“mental health and medical” added).

Disposition: Approved unanimously.

Rationale:

We can’t expect staff and parents to use these placements properly if parties have a misunderstanding about what they are.

In subcommittee and full SEAC discussions of this policy, we note that nearly the first question everyone asked was what the difference was between “homebound” and “home-based.” The policy needs to make the definitions and this difference clear and easily accessible. Also, it appears that the policy contains errors, such as the one in the opening paragraph, due to its editorial history.

Recommendation 2: Add steps to meet obligations to students currently served by Section 504 Plans.

(A)(2)(c) at “notification to special education supervisor”: add “or 504 coordinator”

(A)(3) (IEP Team meeting) add a similar (A)(4) with a 504-team meeting

Add new (A)(4)(b): “Conduct a full re-evaluation of the student.”

(A)(3)(e) at “revise the IEP”: Add new (A)(4)(b) “revise the 504 plan”

Add new (B)(1)(d) with all of these steps for home-based.

Disposition: Approved unanimously.

Rationale:

The draft policy contains several steps to be taken for Special Education students. It fails to include similar steps for students served by Section 504 plans. Some of the same steps are required to comply with Section 504.

Section 504 adds at least one obligation that is distinct from IDEA, see question 29 in [OCR].

A student with a 504 Plan has already been identified by LCPS as having a disability, and it is our understanding as stated in the findings that changing the location and delivery of instruction in order to ensure access to the curriculum is specially designed instruction. Therefore, a student with a 504 Plan who requires homebound or home-based services should be found eligible for Special Education. However, while that process is pending, LCPS must meet its 504 obligations to the student.

Recommendation 3: Add steps to meet IDEA's "Child Find" obligation.

Add: Convene a Child Study Team at the first request for home-bound/-based to review and consider the need for special education and related services. If the student is not referred for evaluation, the Child Study Team should reconvene every 6 months.

Disposition: Approved unanimously.

Rationale:

LCPS has an obligation under IDEA to locate, identify, and evaluate students needing special education and related services. This is referred to as the "Child Find" obligation.

When a child is referred for consideration for having a disability, LCPS convenes a Child Study Team to consider that request. The Child Study Team should consider why the student requires homebound or home-based education. Many of the reasons a student requires homebound or home-based instructional services are signs of a qualifying disability. Depending on the student's circumstances, LCPS is aware that the student may have a disability and already using that to justify services, which exceeds the threshold of suspecting that the child has a qualifying disability.

A placement change related to a disability may meet the definition of the need for specially designed instruction (see Findings, above).

Recommendation 4: Methods for resolving disputes regarding homebound instructional services.

Add: Any parent or legal guardian who is not satisfied by the decision of the school division to their request for home-bound or home-based placement may appeal the decision to the School Board (see School Board Policy 2350 on Appeal of Administrative Decisions [LCPS2350]). The School Board Committee appointed under Policy 2350 is authorized to make exceptions to this policy for good cause.

Disposition: Approved unanimously.

Rationale:

The VDOE Homebound Instructional Services Guidelines [VDOE18] requires the policy to include methods for resolving disputes regarding homebound/-based instructional services.

SEAC has identified significant concerns with dispute resolution and retaliation that exceed the scope of this policy review. Until the School Board develops a solution to those problems, we looked at existing dispute resolution mechanisms and comparative norms to work within for our recommendation rather than propose the creation of an entirely new dispute resolution mechanism.

Under Policy 2350 (B) “Exclusions,” [LCPS2350] and informal offers from LCPS staff, parents with disputes such as denied homebound or home-based placement can contact LCPS administration and make an informal appeal. Parents who reported disputes over homebound/home-based placement reported that they tried such informal appeals without success, and there were reports of some harassment and retaliation in response. This is consistent with numerous reports of parents’ attempts to resolve disputes by informal appeal the LCPS administration. This leads us to conclude that the appeal should not be decided by the same administration who made the original decision and that this is not a viable mechanism to resolve these disputes.

As noted in the community concerns above, many students affected by the homebound and home-based placement policy have qualifying disabilities, though they are often refused identification by LCPS. As such, many of these students are entitled to dispute resolution rights under statutes such as Section 504 of the Rehabilitation Act, the ADA, and the IDEA. Parents of students with disputes regarding homebound and home-based placements have reported that they have retained attorneys to facilitate dispute resolution. It is our understanding that the *Endrew* decision [SCOTUS17] raised the bar of all school system’s obligations under IDEA, and that Arlington County Public Schools recently lost an IDEA case about home-based services.

The subcommittee recommends that the School Board provide a middle ground dispute resolution option between an informal appeal to the administration and disability or Special Education litigation.

The subcommittee also reviewed other LCPS policies and regulations and determined that the closest comparative norm is Policy 8-20, "School Assignment" (C)'s "Special Permission" [LCPS8-20]. This is another parentally initiated change of placement and is also generally granted if criteria are met. Near the end of this policy, in (E)(3), is School Board policy granting parents use of the Appeal of Administrative Decisions policy to appeal these decisions to the school board. This is an existing process, allowing review outside the administration, for a situation with substantial similarity to disputes over this policy.

The subcommittee also noted that, without the ability to use Appeal of Administrative Decisions written into the policy, the School Board has no ability to review and resolve disputes related to this policy.

During the SEAC discussion on this recommendation, SEAC's School Board representative expressed concern that the Appeal of Administrative Decisions process would take too long. For example, a homebound placement is supposed to only be for up to 9 weeks, though renewable, while the appeal process may take two months. She instead proposed the use of an informal appeal to the LCPS administration, which could resolve the dispute faster.

We do not intend or propose to preclude the availability of informal dispute resolution mechanisms. While we agree that a decision might be rendered faster, numerous reports to SEAC lead us to be concerned that the decision made would not actually resolve the dispute. In turn, the student would still not receive appropriate services, and would now be delayed for the time it takes to pursue other dispute resolution mechanisms (such as legal action).

The subcommittee recommends that the School Board add the Appeal of Administrative Decisions dispute resolution mechanism to the policy in order to provide all parties with a middle ground dispute resolution mechanism and to provide the School Board with the ability to facilitate resolution.

Recommendation 5: Make the following editorial changes.

(B)(2)(A): switch (A) & (B) and append “; or” after the new (A)

(A) and (B) are two separate cases, currently an AND, not an OR.

(B)(2)(c): change “disciplinary action” to “placement change”

Rename (C) to “General Provisions”

Make the old (C) a new (C)(1) titled “Staff qualifications”

Move (B)(2)(c) to (C)(2), titled “Attendance”

(A)(3)(d): Prefix with “provide parents with Prior Written Notice” and change “consent” to “informed parental consent”

(A)(3) “it’s” → “its”

Disposition: Approved unanimously.

Rationale:

For the first two edits, (B)(2)(a) and (b) are two separate cases, and the (b) case should be far more common than the (a) case. The policy is written to imply that (a) and (b) are conditions that must both be satisfied (a logical “and”) instead of separate cases, and the policy starts with the rarer disciplinary case rather than the common need-based case, which can mislead the reader.

For the third edit, (B)(2)(c)’s original wording is incorrect. Home-based placement should be made for many non-disciplinary, need-based reasons.

For the third, fourth, and fifth edits, the policy talks about attendance, but only for home-based and only for Special Education. Attendance should be defined uniformly for all cases in the policy (homebound, home-based; general education, special education).

For the sixth edit, the Virginia implementing regulations for Special Education contain many procedural safeguards [8VAC20-81-170]. Among these are requirements to provide Prior Written Notice (PWN) a reasonable time before changing the placement or provision of FAPE to the child (C)(1)(a) and to obtain informed parental consent before any revision to the child’s IEP services (E)(1)(d).

The draft policy requires that staff obtain consent prior to the placement change, which brings to the reader’s attention that LCPS has a procedural obligation. However, it fails to mention one obligation and fails to properly define another. We recommend that the policy make all of the relevant obligations clear and easily accessible to help ensure that they are met.

For the seventh edit, the draft policy contained a grammar error.

4. References and Documents Considered

[LCPS5-64] Loudoun County School Board. "Policy 5-64: Homebound Instruction." October 13, 2009.
<https://www.lcps.org/cms/lib/VA01000195/Centricity/Domain/9/Chapter%205/5-64.pdf>

[LCPS5360] LCPS Staff. "(Proposed) Policy 5360: Homebound and Home-based Instruction." January 9, 2019.
https://lcpsseac.miraheze.org/wiki/File:Draft_policy_homebound_and_home-based_instruction.pdf

[LCPS2350] Loudoun County School Board. "LCPS Policy 2350: Appeal of Administrative Decisions." November 29, 2016.
<https://www.lcps.org/cms/lib/VA01000195/Centricity/Domain/11494/2350%20-%20Appeal%20of%20Administrative%20Decisions.pdf>

[LCPS8-20] Loudoun County School Board. "LCPS Policy 8-20: School Assignment." January 28, 2016.
<https://www.lcps.org/cms/lib/VA01000195/Centricity/Domain/9/Chapter%208/8-20.pdf>

[34 CFR 104.3] U.S. Department of Education. "Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance."
<https://www2.ed.gov/policy/rights/reg/ocr/edlite-34cfr104.html>

[8VAC20-81-10] Virginia Department of Education. "Definitions." *Virginia Administrative Code*.
<https://law.lis.virginia.gov/admincode/title8/agency20/chapter81/section10/>

[8VAC20-81-170] Virginia Department of Education. "Procedural Safeguards." *Virginia Administrative Code*.
<https://law.lis.virginia.gov/admincode/title8/agency20/chapter81/section170/>

[8VAC20-131-30] Virginia Department of Education. "Student Achievement Expectations." *Virginia Administrative Code*.
<https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section30/>

[8VAC20-131-180] Virginia Department of Education. "Off-Site Instruction." *Virginia Administrative Code*.
<https://law.lis.virginia.gov/admincode/title8/agency20/chapter131/section180/>

[SCOTUS17] Supreme Court of the U.S. "Endrew F. v. Douglas County School District RE-1." March 22, 2017.
https://www.supremecourt.gov/opinions/16pdf/15-827_Opm1.pdf

[VDOE18] Virginia Department of Education. "Homebound Instructional Services Guidelines." November, 2018.
http://www.doe.virginia.gov/instruction/homebound/homebound_instructional_services.docx

[OCR] U.S. Department of Education, Office for Civil Rights. "Frequently Asked Questions about Section 504 and the Education of Children With Disabilities."
<https://www2.ed.gov/about/offices/list/ocr/504faq.html>

[OCR2013] U.S. Department of Education, Office for Civil Rights. "Know Your Rights: Pregnant or Parenting? Title IX Protects You From Discrimination At School." June, 2013.
<https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html>

[EEOC2015] U.S. Equal Employment Opportunity Commission. "Enforcement Guidance: Pregnancy Discrimination and Related Issues." June 25, 2015.
https://www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm#IIA